

within 10 days in the form of a Motion to Excuse from Answering. Responses to Motions to Excuse from Answering must be filed within 7 days, and should such a motion be denied, the answers to the discovery in question are due within 7 days of the denial thereof. It is the Commission's intention that parties resolve discovery disputes informally between themselves whenever possible. The Commission, therefore, encourages the party receiving discovery requests considered to be unclear or objectionable to contact counsel for the party filing the discovery requests whenever further explanation is needed, or a potential discovery dispute might be resolved by means of such communication.

\* \* \* \* \*

3. Amend § 3001.69b by revising paragraphs (b) through (d) to read as follows:

**§ 3001.69b Expedited minor classification cases'expedition of procedural schedule.**

\* \* \* \* \*

(b) Persons who are interested in participating in proceedings to consider Postal Service requests for minor changes in mail classification may intervene pursuant to § 3001.20. Parties may withdraw from a particular case by filing a notice with the Secretary of the Commission.

(c) When the Postal Service files a request under the provisions of §§ 3001.69 through 3001.69c, it shall comply with the standard Filing Online procedures of §§ 3001.9 through 3001.12.

(d) When the Postal Service files a request under the provisions of §§ 3001.69 through 3001.69c, it shall on that same day file a notice that briefly describes its proposal. This notice shall indicate on its first page that it is a notice of a request for a minor change in mail classification to be considered under §§ 3001.69 through 3001.69c, and identify the last day for filing a notice of intervention with the Commission.

\* \* \* \* \*

4. Amend § 3001.163 by revising paragraphs (b) through (d) to read as follows:

**§ 3001.163 Procedures'expedition of public notice and procedural schedule.**

\* \* \* \* \*

(b) Persons who are interested in participating in proceedings to consider Postal Service requests to conduct a market test may intervene pursuant to § 3001.20 within 28 days after the filing of a formal request made under the provisions of this subpart. Parties may withdraw from a particular case by

filing a notice with the Secretary of the Commission.

(c) When the Postal Service files a request under the provisions of this subpart, it shall comply with the standard Filing Online procedures of §§ 3001.9 through 3001.12.

(d) When the Postal Service files a request under the provisions of this subpart, it shall on that same day file a notice that briefly describes its proposal. This notice shall indicate on its first page that it is a notice of a Market Test Request to be considered under §§ 3001.161 through 3001.166, and identify the last day for filing a notice of intervention with the Commission.

\* \* \* \* \*

5. Amend § 3001.173 by revising paragraphs (b) through (d) to read as follows:

**§ 3001.173 Procedures—expedition of public notice and procedural schedule.**

\* \* \* \* \*

(b) Persons who are interested in participating in proceedings to consider Postal Service requests to establish a provisional service may intervene pursuant to § 3001.20 within 28 days after the filing of a formal request made under the provisions of this subpart. Parties may withdraw from a particular case by filing a notice with the Secretary of the Commission.

(c) When the Postal Service files a request under the provisions of this subpart, it shall comply with the standard Filing Online procedures of §§ 3001.9 through 3001.12.

(d) When the Postal Service files a request under the provisions of this subpart, it shall on that same day file a notice that briefly describes its proposal. Such notice shall indicate on its first page that it is a notice of a Request for Establishment of a Provisional Service to be considered under §§ 3001.171 through 3001.176, and identify the last day for filing a notice of intervention with the Commission.

\* \* \* \* \*

[FR Doc. 03-6250 Filed 3-14-03; 8:45 am]

BILLING CODE 7710-FW-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[OH155-2; FRL-7467-3]

**Approval and Promulgation of Air Quality Implementation Plans; Ohio; Withdrawal of Direct Final Rule**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** Due to the receipt of an adverse comment, the EPA is withdrawing the direct final rule approving Ohio's State Implementation Plan for the Oxides of Nitrogen (NO<sub>x</sub>) State Implementation Plan Call. In the direct final rule published on January 16, 2003 (68 FR 2211), EPA stated that if EPA receives adverse comment by February 18, 2003, the NO<sub>x</sub> rule would be withdrawn and not take effect. On February 18, 2003, EPA subsequently received one comment from American Electric Power Service Corporation (AEP). We believe this comment is adverse and therefore, we are withdrawing the direct final rule. EPA will address the comment received from AEP in a subsequent final action based on the proposed action published on January 16, 2003.

**DATES:** The direct final rule published at 68 FR 2211 on January 16, 2003, is withdrawn as of March 17, 2003.

**FOR FURTHER INFORMATION CONTACT:** John Paskevicz, Engineer, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois, 60604. Telephone: (312) 886-6084. E-Mail Address: *paskevicz.john@epa.gov*.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: March 7, 2003.

**Cheryl Newton,**

*Acting Regional Administrator, Region 5.*

**PART 52—[AMENDED]**

Accordingly, the addition of 40 CFR 52.1870(c) (127) is withdrawn as of March 17, 2003.

[FR Doc. 03-6192 Filed 3-14-03; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

[AD-FRL-7467-1]

RIN 2060-AG97

**National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; technical correction.

**SUMMARY:** On June 10, 2002, EPA issued the national emission standards for hazardous air pollutants (NESHAP) for the surface coating of metal coil. This action will correct the timeline for beginning the first semiannual reporting period and submitting the first semiannual report as published in the NESHAP. The correction is necessary because the compliance period was changed from monthly in the proposed NESHAP (65 FR 44616, July 18, 2000) to annual in the final NESHAP (67 FR 39794, June 10, 2002), and the timeline was not corrected in the final NESHAP to reflect that change. This action will not change the level of health protection of the Metal Coil Surface Coating NESHAP or the basic control requirements. The NESHAP requires new and existing major sources to control emissions of hazardous air

pollutants (HAP) to the level reflecting application of the maximum achievable control technology.

**EFFECTIVE DATE:** March 17, 2003.

**ADDRESSES:** Docket No. A-97-47 contains the supporting information used in developing the Metal Coil Surface Coating NESHAP. The EPA Docket Center is located at the U.S. EPA, 1301 Constitution Avenue, NW., Room B102, Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Ms. Rhea Jones, Coatings and Consumer Products Group (C539-03), Emission Standards Division, U.S. EPA, Research Triangle Park, NC 27711; telephone number (919) 541-2940; facsimile number (919) 541-5689; electronic mail address: [jones.rhea@epa.gov](mailto:jones.rhea@epa.gov).

**SUPPLEMENTARY INFORMATION:** *Good Cause.* Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that when an agency for good cause finds that notice and

public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for making the technical correction final without prior proposal and opportunity for comment because the changes to the rule are minor technical corrections, are noncontroversial in nature, and do not substantively change the requirements of the Metal Coil Surface Coating NESHAP. Thus, notice and public procedure are unnecessary. The EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

**Regulated Entities.** All entities regulated under the Metal Coil Surface Coating NESHAP will be affected by this correction. Categories and entities potentially regulated by the NESHAP include:

Category	NAICS codes	Examples of potentially regulated entities
Metal Coil Coating Industry .....	332812 <sup>a</sup> , 339991, 331112, 331221, 33121, 331312, 331314, 331315, 332312, 332322, 332311, 33637, 332813, 332999, 333293, 336399, 325992, 42183.	Those facilities that perform surface coating of metal coil using HAP-containing materials.

<sup>1</sup> The majority of facilities are included in NAICS 332812.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. To determine whether your facility is regulated by the Metal Coil Surface Coating NESHAP, you should examine the applicability criteria in § 63.5090 of the NESHAP. If you have any questions regarding the applicability of this action to a particular entity, consult the appropriate Regional Office representative. *Worldwide Web (WWW).* In addition to being available in the docket, an electronic copy of today's action will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of this action will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at <http://www.epa.gov/ttn/oarpg>. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541-5384.

**I. Summary of Corrections**

Today's action consists of corrections to 40 CFR 63.5180(g)(1), subparagraphs (i) and (ii). In the **Federal Register** document published June 10, 2002 (67 FR 39794), these subparagraphs

mistakenly stated that the first semiannual reporting period would begin on the compliance date specified in § 63.5130 and end on June 30 or December 31, whichever date is the first date following the end of the calendar half following the compliance date. The first semiannual report would, therefore, be scheduled to be postmarked or submitted 1 month later. Beginning the semiannual reporting period and submitting the first semiannual report as described in these subparagraphs would require that facilities submit semiannual reports before the end of the initial compliance period and before submitting a notification of compliance status. Our intent was to require that the first semiannual reporting period begin on the day following the end of the initial compliance period rather than on the compliance date, and end 6 months later. The first semiannual report would then be submitted 1 month after the end of the reporting period.

**II. Statutory and Executive Order Review**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. Because EPA has made a "good cause"

finding that this action is not subject to notice and comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law No. 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of the UMRA. The technical corrections also do not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). The technical corrections will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

The technical corrections action does not involve technical standards. The EPA's compliance with § 12(d) of the

National Technology Transfer and Advancement Act of 1995 (Pub. L. No. 104-113, section 12(d) (15 U.S.C. 272 note)) has been addressed in the preamble of the underlying final rule (67 FR 39794, June 10, 2002). The technical corrections also do not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing the technical corrections, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the technical corrections in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order. The technical corrections do not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*). The EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the June 10, 2002, **Federal Register** notice containing the metal coil surface coating final rule.

The technical corrections are not subject to Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22, 2001) because they are not a significant regulatory action under Executive Order 12866.

The Congressional Review Act (CRA) (5 U.S.C. 801, *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to the public interest. This determination must be supported by a brief statement (5 U.S.C. 808(2)). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of March 17, 2003. The EPA will submit a report containing the technical corrections and

other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the correction notice in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: March 7, 2003.

**Robert Brenner,**

*Acting Assistant Administrator for Air and Radiation.*

For the reasons set out in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

#### PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

**Authority:** 42 U.S.C. 7401, *et seq.*

#### Subpart SSSS—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil

2. Section 63.5180 is amended by revising paragraphs (g)(1)(i) and (g)(1)(ii) to read as follows:

##### § 63.5180 What reports must I submit?

\* \* \* \* \*

(g) \* \* \*

(1) \* \* \*

(i) The first semiannual reporting period begins 1 day after the end of the initial compliance period described in § 63.5130(d) that applies to your affected source and ends 6 months later.

(ii) The first semiannual compliance report must cover the first semiannual reporting period and be postmarked or delivered no later than 30 days after the reporting period ends.

\* \* \* \* \*

[FR Doc. 03-6301 Filed 3-14-03; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 228

[FRL-7467-6]

#### Historic Area Remediation Site (HARS)—Specific Polychlorinated Biphenyl Worm Tissue Criterion

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) today modifies the designation of the Historic Area Remediation Site (hereinafter referred to as HARS) by establishing a HARS-specific worm tissue polychlorinated biphenyl (PCB) criterion of 113 parts per billion (ppb) for use in determining the suitability of proposed dredged material for use as Remediation Material. This amendment to the HARS designation establishes a pass/fail criterion for evaluating PCBs in worm tissue from bioaccumulation tests performed on dredged material proposed for use at the HARS as Remediation Material. The PCB criterion will remain in effect until after EPA and the U.S. Army Corps of Engineers (USACE) complete their review of the 2002 scientific peer review comments on the HARS testing evaluation process used for bioaccumulation data from dredged material proposed for use at the HARS as Remediation Material for human health effects, conduct and respond to the comments on the future scientific peer review on the HARS testing evaluation process used for bioaccumulation data from dredged material proposed for use at the HARS as Remediation Material for ecological effects, and revise, as necessary, the HARS testing evaluation process used for bioaccumulation data from dredged material proposed for use at the HARS for all contaminants of concern in accordance with the September 27, 2000 Memorandum of Agreement (MOA) (USEPA, 2000a) between EPA and the USACE.

Among other things, the September 27, 2000 MOA established an interim guidance value of 113 ppb for PCBs in the tissues of bioassayed worms, to be considered when determining whether proposed dredged material from the New York/New Jersey Harbor is acceptable for placement at the HARS. At the time of the MOA, the agencies agreed that, while the peer review was not complete, the implementation of this interim change was warranted based upon existing information. This